

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

HOWLAND 3 INVESTMENTS, LLC, et al.,)
)
Plaintiffs,)
)
v.)
)
HERITAGE COAL COMPANY, LLC, et al.,)
)
Defendants.)

Case No. 3:09-cv-451 JPG-DGW

ORDER

Now pending before the Court is an Agreed Motion to Allow Inspection and Testing of Real Property Pursuant to Protocol (Doc. 44).

Federal Rule of Civil Procedure 34(a)(2) permits “entry onto designated land or other property possessed or controlled by the responding party, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.” Here, the parties have agreed to inspection of the real property that is the subject matter of this action to assess mine subsidence. The parties have submitted a protocol for the inspection that specifies methods and procedures to be used in inspecting and assessing the property.

The motion is **GRANTED**. The Court **APPROVES** the protocol submitted with the motion. Plaintiffs shall allow the entry upon, inspection, and testing of the subject real property pursuant to the protocol, to occur on a date and time that is mutually convenient to all parties.

IT IS SO ORDERED.

DATED: March 29, 2010

s/ Donald G. Wilkerson
DONALD G. WILKERSON
United States Magistrate Judge